



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

SEPTEMBER 13, 2005

PRESENT: Koepp-Baker, Benich, Davenport, Escobar, Lyle, Mueller

ABSENT: None

LATE: Acevedo, who arrived and was seated at 7:22 p.m.

STAFF: Planning Manager (PM) Rowe and Minutes Clerk Johnson

Chair Lyle called the meeting to order at 7:02 p.m., by inviting Natalie James, student at Live Oak High School to lead the flag salute.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Lyle presented the opportunity for public comment.

With no one present indicating a wish to address matters not on the agenda, the time for public comment was closed.

MINUTES

AUGUST 9, 2005 **COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE AUGUST 9, 2005 MINUTES, WITH THE FOLLOWING MODIFICATIONS:**

Page 11 (Geology) bullet 1: ~~where it could be investigated for effectiveness and further the effect of~~ **and reduce the**

Page 11, Geology - 2nd paragraph: ~~investigate~~ **address**; delete *have* in the bulleted next line.

Page 11, Land Use - 2nd dash: ...approval **but that is achievable**

Page 11, Noise - ...address **noise impact on the**

Page 11, Public Services – ~~disquiet~~ **uneasiness**

Page 12, 1st bullet: ...inadequate **so the trip reductions due to transit are overstated**

Page 13, paragraph 3: the **proposed business** mix **and**development **and/or could have a strong negative impact on existing Morgan Hill businesses.**

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THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: BENICH; ABSENT: ACEVEDO.

**SEPTEMBER 1,
2005**

Following brief discussion regarding a few clarification points, **COMMISSIONERS MUELLER/BENICH MOTIONED TO APPROVE THE SEPTEMBER 1, 2005 MINUTES AS PRESENTED. THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: ESCOBAR; ABSENT: ACEVEDO.**

NEW BUSINESS:

**1) UP-05-03:
ADAMS-SOUTH
COUNTY
FELLOWSHIP**

A request for approval of a conditional use permit for a 1,248 square foot meeting hall to be located at 18675 Adams Ct. in a Light Industrial zoning district.

PM Rowe presented the staff report, explaining this was a request for a Conditional Use Permit (CUP) to operate a 1,248 sq. ft. meeting hall at 18675 Adams Court. The primary use, PM Rowe said, would be for a recovery meeting hall. The applicant wishes to continue using the facility and therefore a CUP must be approved by the Planning Commission before October 20, 2005. He called attention to page 2 of the staff report, wherein the meeting times and projected attendance were presented in table form. The Use Permit Findings were acknowledged as well.

PM Rowe explained the parking spaces necessary on the site. An issue had resulted from consideration of the *parking requirements*, PM Rowe said, which was not a problem for issuing the CUP, but had been identified as a code issue: The storage containers located on the site cover some of the parking spaces which are needed; since the containers are not in compliance with the Code, they must be removed. He pointed out Condition F, which requires the removal of the storage containers within six months and stated that the property owner has indicated that they will move a 'couple of the containers' within the near future.

PM Rowe also noted there should not be a significant increase in traffic as a result of the request before the Commissioners and that the participants would be conducive to continuation of the program.

Commissioner Benich asked if during the past year of operation any problems with the parking had been noticed? PM Rowe replied that the operation was on a 'time off schedule' from other uses in the area and the highest demand for parking appeared to be from 5:00 – 7:00 p.m., and as a result there was not a conflict with day use of buildings in the area. PM Rowe further clarified that the issue was not a matter of parking use, but violation of City code which prohibits storage on top of usable (parking) spaces.

Commissioner Benich requested further clarification of the proposed Resolution No 05-48, Condition F, asking if the Planning Commission could impose a condition on the applicant when the responsibility for meeting code is with the owner of the property?

PM Rowe explained code enforcement dealings with the property owner and that the CUP ran with the property, not a current use.

Chair Lyle opened the public hearing.

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Mike McCune 17025 Aspen Way, said he agreed with statements made by Commissioner Benich, as he expressed concern with Condition F. "I'm here representing South County Fellowship which is renting the facility, so that Condition puts me in a tough spot. To tell the owner he'll have to move containers...for me to sign an affidavit that the containers will be moved. This is difficult. The agreement we're talking about doesn't explain how it works with South County Fellowship. I understand that it runs with the land, but I'm worried that with the problem, a solution may not work. I want to do what I can, but the storage container is an issue," Mr. McCune stated.

With no others present to address the matter, the public hearing was closed.

Commissioner Mueller emphasized there were two points with a CUP. It is common for an owner to have an applicant (tenant) come to the Planning Commission, as the owner says you, the tenant, must deal with the City, but the owner is the beneficiary. He makes money; if you, the applicant, should decide to leave, the CUP runs with land. We, the City and the Planning Commission, need to make sure things are 'right'. If the property owner is doing something wrong, e.g., continuing a code enforcement issue, we can help. In this case, the owner is in violation of a Municipal Code, so we cannot approve a CUP until there has been a stipulation that the storage containers, in this case, shall be removed by the property owner.

Commissioner Escobar stressed that the City is telling the owner he cannot lease the property until the violation is fixed.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 05-48, APPROVING A RECOVERY MEETING HALL AT 18675 ADAMS COURT, SUITE "N" IN THE LIGHT INDUSTRIAL ZONING DISTRICT, INCLUSIVE OF THE FINDINGS AND CONDITIONS PRESENTED WITHIN AND MODIFYING/STRENGTHENING CONDITION F/OTHER CONDITIONS TO CLARIFY THAT THE REMOVAL OF THE STORAGE CONTAINER(S) IS THE SOLE RESPONSIBILITY OF THE PROPERTY OWNER. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ACEVEDO WAS ABSENT.

For the benefit of the student audience and the applicant, Commissioner Mueller explained the CUP process, including the public hearing, and verifying that the property owner must answer to the Planning Commission.

**2) UP-05-05: E.
DUNNE-HANAMI
SUSHI**

A request for approval of a conditional use permit for a 2,217 square foot restaurant to be located at 1295 E. Dunne Ave. in a Planned Unit Development zoning district.

PM Rowe presented the staff report, clarifying the location and explaining that the Architectural Review Board (ARB) had approved the project concept and that an Environmental Initial Study was done as well. He noted that as part of the approval, a traffic signal would be required.

Commissioner Acevedo arrived at 7:22 p.m. and was seated on the dais.

PM Rowe provided an overview of the hours of operation and the findings were noted.

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PM Rowe thoroughly explained the parking correction requirement: A space adjustment of tenant mix requires 123 spaces or the applicant will be required to obtain an agreement with an adjacent business for an additional four parking spaces due to the current parking space deficit. He called attention to page 22 of the Standard Conditions, offering language to provide amendment for the parking issue.

Chair Lyle opened the public hearing.

Seeing none were present to speak to the matter, Chair Lyle closed the public hearing.

The Commissioners engaged in brief discussion regarding the hours of use/operation.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 05-47, APPROVING A SIT-DOWN RESTAURANT AT 1295 EAST DUNNE AVENUE, SUITE 190 IN THE HARVEST PLAZA SHOPPING CENTER, AND MODIFYING PAGE 22 OF THE STANDARD CONDITIONS TO INCLUDE:

The tenant mix in the building shall not exceed a total requirement of 123 spaces or the applicant shall secure an additional four parking spaces through a shared parking agreement with the adjacent retail center. COMMISSIONER ESCOBAR SECONDED THE MOTION, NOTING THE FINDINGS AND CONTAINED WITHIN THE RESOLUTION. THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, DAVENPORT, ESCOBAR, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

OTHER BUSINESS:

**3) UPDATE OF
DESIRABLE
INFILL POLICY**

PM Rowe advised that this item was placed on the agenda for 'clean up'. He continued by stating that the City Council had adopted Policies and Procedures when Measure P was effective regarding desirable infill standards. The matter had been turned over to staff for writing the clarifying language and was to be reviewed by the Commissioners before being returned to the City Council Members at their next meeting. "Basically, it is just a housekeeping matter," PM Rowe clarified. "There is a limit on the amount of land which can be taken into the City. The document being presented clarifies the criteria for adjustment of the Urban Service Boundary and sets forth the desirable infill standards. This document has been designed to meet the criteria of the recently passed (by the voters) Measure C." PM Rowe went on to explain that the first three pages of the document were background and clarifying statements. Then, beginning on page 4 the underlined language had been taken directly from Measure C and the language within page 4 was not in policy and needed to be added.

Commissioners discussed the document and raised the issue of the potential urgency [not], with PM Rowe explaining the inclusion to the Municipal Code so there is a 'match' with Measure C.

Commissioner Benich asked for clarification regarding 'partial property', with PM Rowe and the Commissioners responding and providing examples.

COMMISSIONERS MUELLER/ ESCOBAR MOTIONED TO RECOMMEND THE CITY COUNCIL APPROVE AND ADOPT THE UPDATE OF THE DESIRABLE INFILL POLICY, AS PRESENTED. THE MOTION PASSED WITH

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THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, DAVENPORT, ESCOBAR, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE: ABSTAIN: NONE; ABSENT: NONE.

ANNOUNCEMENTS: The moderate housing fixed price/deed restriction issue will be heard by the City Council at the October 11 meeting.

The Downtown Competition and Affordable Projects Competitions were discussed briefly, following the report by PM Rowe.

Commissioner Mueller asked for a report at a future meeting regarding the 'visioning process' talked about by the City Council.

Commissioner Benich requested a date certain for discussion of the CUP for Safeway and if the conditions of the CUP have been met. PM Rowe reported that Safeway is still waiting for the sign contractor to deliver and install the directional signs to be located within the property. He explained that the City continues to hold a \$5,000 bond and that Safeway also retains a portion of the payment to the contractor so the contractor should be highly motivated to complete the requirements.

ADJOURNMENT: Verifying that there was no further business to come before the Commission, Chair Lyle adjourned the meeting at 7:38 p.m.

MINUTES PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk